

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

X Chapter 7

78-80 ST. MARKS PLACE, LLC,

Case No.: 21-12139 (MG)

Debtor.

X  
**ORDER APPROVING STIPULATION BETWEEN THE CHAPTER 7  
TRUSTEE AND ST. MARK'S MIXED USE LLC**

Upon the motion (“Motion”) [ECF No. 97] of Marianne T. O’Toole, solely in her capacity as the Chapter 7 Trustee (“Trustee”) of the estate of 78-80 St. Marks Place, LLC (“Debtor”), seeking entry of an Order pursuant to section 105(a) of title 11 of the United States Code (“Bankruptcy Code”) and Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”): (i) approving the stipulation (“Stipulation”) between the Trustee and St. Mark’s Mixed Use LLC (“Lender”); and (ii) granting related relief; and upon the Affidavit of Service and Affirmation of Service of the Motion [ECF Nos. 98, 99]; and upon the limited objection filed on behalf of Lawrence Lorcan Otway, Eugenie Otway, Theatre 80 LLC, Scheib’s Place Inc. and Exhibition of the American Gangster Inc. (“Limited Objection”) [ECF Nos. 114, 116]; and upon the hearing conducted on January 25, 2023 (“Hearing”); and upon the record of the Hearing; and the Court having determined that the Stipulation is a fair and reasonable settlement of the disputes at issue, a proper exercise of the Trustee’s business judgment in light of the risks and costs of further litigation and the circumstances of this case, and is in the best interests of the Debtor’s estate; and no additional notice being necessary or required;

**IT IS HEREBY FOUND<sup>1</sup> THAT:**

A. This Court has jurisdiction to consider the Motion and relief requested therein

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<sup>1</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact, when appropriate. See FED. R. BANKR. P. 7052.

pursuant to 28 U.S.C. §§157 and 1334 and the matter is a core proceeding under 28 U.S.C. §§157(b)(2)(A) and(O).

B. Adequate notice of the Motion has been given and no further notice is required.

C. The Stipulation was negotiated at arm's-length and in good faith.

D. The settlement set forth in the Stipulation falls above the lowest point in the range of reasonableness.

E. The Stipulation and the relief requested in the Motion represent a fair and reasonable exercise of the Trustee's business judgment.

**NOW, THEREFORE**, upon the Motion of the Trustee, the record of the Hearing, the record in the Debtor's case, and good cause shown, it is hereby

**ORDERED** that the Limited Objection is overruled; and, it is further

**ORDERED** that the Stipulation, a copy of which is annexed as Exhibit A, is approved in its entirety, and each of the Terms and Conditions set forth in paragraphs 2 through 26 are hereby deemed So Ordered and have the same effect as if set forth herein; and, it is further

**ORDERED** that this Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order and/or the Stipulation; and, it is further

**ORDERED** that this Order shall be effective and enforceable immediately upon entry and shall constitute a final order within the meaning of 28 U.S.C. § 158(a).

**IT IS SO ORDERED:**

Dated: January 26, 2023  
New York, New York

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**/s/ Martin Glenn**  
MARTIN GLENN  
Chief United States Bankruptcy Judge